

**COUNTY OF SAN LUIS OBISPO BOARD OF SUPERVISORS  
AGENDA ITEM TRANSMITTAL**

(1) DEPARTMENT Public Works	(2) MEETING DATE 6/7/2016	(3) CONTACT/PHONE Glenn Marshall, Development Services Engineer (805) 781-1596	
(4) SUBJECT Hearing to consider an appeal of the South County Area 2 Road Improvement Fee by Mr. Ryan Maxwell. District 4.			
(5) RECOMMENDED ACTION It is recommended that the Board deny the appeal to waive the Road Improvement Fee.			
(6) FUNDING SOURCE(S) N/A	(7) CURRENT YEAR FINANCIAL IMPACT N/A	(8) ANNUAL FINANCIAL IMPACT N/A	(9) BUDGETED? N/A
(10) AGENDA PLACEMENT { } Consent    { } Presentation <b>{X}</b> Hearing (Time Est. 15 min_)    { } Board Business (Time Est.____)			
(11) EXECUTED DOCUMENTS { } Resolutions    { } Contracts    { } Ordinances <b>{X}</b> N/A			
(12) OUTLINE AGREEMENT REQUISITION NUMBER (OAR) N/A		(13) BUDGET ADJUSTMENT REQUIRED? BAR ID Number: N/A { } 4/5 Vote Required <b>{X}</b> N/A	
(14) LOCATION MAP Attached	(15) BUSINESS IMPACT STATEMENT? No	(16) AGENDA ITEM HISTORY <b>{X}</b> N/A    Date: _____	
(17) ADMINISTRATIVE OFFICE REVIEW David E. Grim			
(18) SUPERVISOR DISTRICT(S) District 4			

Reference: 16JUN07-H-4

## County of San Luis Obispo



TO: Board of Supervisors

FROM: Public Works

Glenn Marshall, Development Services Engineer

VIA: Dave Flynn, Deputy Director of Public Works

DATE: 6/7/2016

SUBJECT: Hearing to consider an appeal of the South County Area 2 Road Improvement Fee by Mr. Ryan Maxwell. District 4.

### **RECOMMENDATION**

It is recommended that the Board deny the appeal to waive the Road Improvement Fee.

### **DISCUSSION**

Mr. Ryan Maxwell (Appellant) has applied for a building permit, PMT2015-02427, to construct a secondary residence at 2390 Callender Road on the Nipomo Mesa (see Attachment 1). The project property is located within the South County Area 2 Road Improvement Fee area and is required by County Ordinance 13.01 to pay the regional impact fee to mitigate for the additional traffic generated by new development. Presently the Road Impact Fee for a residential unit in Area 2 is \$10,408 (see Attachment 2). Mr. Maxwell has filed an appeal requesting your Board waive the Road Impact Fee. A copy the appeal letter is provided in Attachment 3.

The appellant's project consists of a new 1,052 sf secondary dwelling with a 552 sf garage/workshop and 474 sf in patio areas. Secondary dwellings are defined as residential structures and trigger Road Impact Fees.

To avoid the Road Impact Fee, the appellant could scale down their project to meet the County's definition of a Guest house. Guest houses have more restrictions than secondary dwellings including square footage (600 sf max), no kitchen, and proximity to the primary residence.

### **Appeal Issues**

In his appeal letter, Mr. Maxwell raises the following comments, which are paraphrased below, along with staff's response:

***Appeal Point 1: The secondary dwelling will be occupied by family members and will not result in additional road impacts.***

**Staff Response to Appeal Point 1:** County Road Impact Fees are based upon the traffic-generating characteristics of a specific development as defined in the Institute of Transportation Engineering (ITE) Trip Generation Manual. This manual, together with our experience, has consistently shown residential structures, regardless of their square footage, will generate approximately 10 trips per day per residence with one of those trips occurring during the peak hour. The peak hour trip establishes the basis for calculating the impact fee.

Although the appellant's intent is for family members to occupy the secondary dwelling, data shows that vehicle trips are solely based on the use of the development and not the relationship of the inhabitants. Furthermore, it can be reasonably assumed that over time, dwelling occupancy and property ownership changes will occur.

County Title 22.30.470 (Secondary Dwellings) requires that the property owner occupy one unit on the site as their primary residence. There is no restriction on the relationship of the occupant for the secondary unit so even if a correlation existed between family occupied dwellings and vehicle trips generated, there is no enforcement mechanism to address future changes.

**Appeal Point 2:** *The cost of the impact fee is an excessive 5% of the project construction costs. In addition, I am required to chip seal the entire length of the unpaved access road to my new residence.*

**Staff Response to Appeal Point 2:** The impact fee is directly proportional to the traffic generated by the new development, not the cost of the development. The Road Improvement Fees are based on the South County Circulation Study which identifies transportation projects necessary to mitigate traffic impacts of cumulative development. The study defines transportation projects within the fee area, establishes construction costs, and apportions those costs to new development based on the amount of traffic generated.

In accordance with Title 22.30.470, secondary dwellings must place chip seal over a Class II base material from the new residence back to the nearest maintained road. This Ordinance requirement is for dust control and to provide emergency all weather access to the new residence. It is not a mitigation for traffic generated by the new development.

### **South County Road Improvement Fee Area Appeal History**

Since 1991, there have been 36 Road Improvement Fee appeals within the South County Road Fee Areas 1 and 2. The following summarizes your Board's actions on each of these appeals:

Category	No. of Appeals	Board Action			RIF Losses
		Adjusted	Waived	Denied	
Residential	28	5	1	22	\$80,663
Industrial	1	1	-	-	7,162
Commercial	4	3	1	-	99,998
Church	3	1	1	1	22,591
<b>Total</b>	<b>36</b>	<b>10</b>	<b>3</b>	<b>23</b>	<b>\$210,414</b>

### **Basis for Adjustment or Waiver of the Fee**

Section 13.01.050 of the San Luis Obispo County Code states that an adjustment or waiver of the fee may be granted, “based on the absence of any reasonable relationship or nexus between the traffic-generating impacts of that new development, and either the amount of the fee imposed or the type of road facilities or improvements to be financed by the fee.”

The South County Circulation Study establishes the reasonable relationship, or nexus, required for the imposition of the impact fee within the study area. The most recent update of the study was a comprehensive update that was adopted by your Board on March 8, 2016, and the fees recommended in that update became effective May 8, 2016. The current fee for South County Area 2 is \$10,408 per residential p.m. peak hour trip.

All new developments or changes in use of existing development within the area will contribute to the need for road and other transportation improvements, the study recommends. The improvement program is designed to provide the necessary capacity, in the network of arterial and collector streets, to meet the County’s established level of service criteria. The Road Improvement Fee was adopted by your Board to apportion the cost of the needed improvements to all development, based on the amount of traffic generated. If adequate funding is not obtained through collection of fees, the program’s capital cost will need to be funding by other revenues to the County.

The adopted study prioritizes the following Area 2 transportation improvement projects:

1. Los Berros Road widening from Avis Street to US 101
2. Dual Roundabouts at Highway 1 (Cienega Road) and Halcyon Road
3. Los Berros Road widening from Valley Road to El Campo Road
4. Los Berros Road widening from El Campo Road to Avis Street
5. Roundabout at Highway 1 and Valley Road

Vehicle trips generated by the proposed development are expected to traverse many, if not all of these priority project sites.

### **OTHER AGENCY INVOLVEMENT/IMPACT**

The Building Permit is being processed by the Department of Planning and Building.

### **FINANCIAL CONSIDERATIONS**

The South County Circulation Study establishes a capital improvement program that identifies transportation projects necessary to support new development. Supporting this appeal would result in loss of revenues that would impact future South County Area 2 projects as identified herein. Supporting this appeal may also set a precedent that could result in substantial loss of Road Improvement Fee revenue in the future.

A fee of \$529 was paid by the applicant to process this appeal request. This fee is applied to offset time spent by staff to prepare this report and present this appeal to the Board of Supervisors at public hearing.

## **RESULTS**

The results of considering this appeal will include your determination on how impact fees are allocated to new development, which will promote a well-governed community.

## **ATTACHMENTS**

1. Vicinity Map
2. South County Road Improvement Fee Area
3. Appellant's Letter

c: Mr. Ryan Maxwell, 2388 Callender Road, Arroyo Grande, CA 93420

File: CF 830.29.01 Road Improvement Fees

Reference: 16JUN07-H-4

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